

THE MINUTES OF THE REGULAR MEETING OF JULY 12, 2018

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, July 12, 2018 in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Ross presiding. The following members of the Commission were present: Ms. Kim Hoey-Stevenson, Mr. Doug Hudson, Mr. Keller Hopkins, Mr. Robert Wheatley, Ms. Holly Wingate, with Mr. Vincent Robertson – Assistant County Attorney, Ms. Janelle Cornwell – Director, Mrs. Jennifer Walls – Planning Manager, and Ms. Samantha Bulkilvish - Planner I.

Motion by Mr. Hudson, seconded by Mr. Wheatley, and carried unanimously to approve the Agenda as amended. Motion carried 5-0.

ADDITIONAL BUSINESS

Administration of Oaths – Mr. Robertson administered Oaths to the Planning Commission Members.

REORGANIZATION

Ms. Stevenson appointed by Ms. Cornwell as Acting Chairman for the purpose of holding and electing of Officers.

Ms. Cornwell open nominations for Chairman.

Mr. Hudson, nominated Mr. Wheatley as Chairman. There were no other nominations for Chairman.

Motion by Mr. Hopkins, seconded by Mr. Hudson, that the nominations for Chairman be closed. Motion carried. 5-0.

Motion by Ms. Stevenson to elect Mr. Wheatley as Chairman, seconded by Mr. Hudson. Motion carried 5-0.

Vote for Mr. Wheatley, as Chairman by roll call: Ms. Wingate-yea, Mr. Hopkins-yea, Ms. Stevenson-yea, Mr. Hudson-yea, Mr. Wheatley-yea.

Ms. Cornwell open and nominations for Vice-Chairman.

Mr. Hopkins nominated Ms. Stevenson as Vice-Chairman. There were no other nominations for Vice-Chairman.

Motion by Mr. Hopkins, seconded by Mr. Wheatley, that the nominations for Vice-Chairman be closed. Motion carried 5-0.

Motion by Mr. Hudson, seconded by Wheatley to elect Ms. Stevenson as Vice-Chairman.
Motion carried 5-0.

Vote for Ms. Stevenson as Vice-Chairman by roll call: Ms. Wingate-yea, Mr. Hopkins-yea, Ms. Stevenson-yea, Mr. Hudson-yea, Mr. Wheatley-yea.

Ms. Cornwell turned the meeting over to Mr. Wheatley.

Mr. Wheatley appointed Planning Staff as Secretary for the Commission.

Motion by Mr. Hopkins, seconded by Ms. Stevenson and carried unanimously to approve the appointment of the Planning Staff as Secretary for the Commission. Motion carried 5-0.

Mr. Wheatley authorized the Director, Manager, Planners, and Technician to sign record plots on behalf of the Commission.

MINUTES

Motion by Ms. Stevenson, seconded by Mr. Hudson and carried unanimously to approve the Minutes for June 14, 2018 as submitted. Motion carried 5-0.

OLD BUSINESS

None

PUBLIC HEARINGS

Mr. Robertson described how the public hearings are processed.

C/U 2137 John W. Ford

An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for professional offices to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.5739 acre, more or less. The property is lying on the south side of Savannah Rd., approximately 691 ft. east of Wescoats Rd. 911 Address: 1530 Savannah Rd., Lewes. Tax Parcel: 335-12.06-50.00

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, site plan, photos, results of the Service Level Evaluation from DelDOT, comments from Sussex Conservation District; that an exhibit booklet was received after the 10-day rule due to unforeseen circumstances. The Commission accepted the submission of the exhibit booklet.

The Commission found Tim Willard, Attorney with Fuqua, Willard, Stevens & Schab and John Ford, applicant were present on behalf of the application; that Mr. Willard stated that Mr. Ford owns four RE-MAX offices; that the application is for a Conditional Use on Savannah Road; that the property is over half an acre; that the property is on the southeast side of the road next to the podiatrist office; that the Conditional Use is to use the space as a realty office; that the applicant proposes to an addition to the building; that the applicant proposes to preserve as many trees as possible; that the fence will remain; that all the parking would be in the rear and handicap

parking in the front; that 19 parking spaces are available; that this is a unique area with small businesses and has kept the residential look; that the applicant proposes to keep the same residential look of the building with additions; that there are a lot of similar uses in the area; that letters were sent out by Mr. Ford to owners and no opposition was returned; that a TIS was not required; that Mr. Ford affirmed Mr. Willards statements; that the hours of operation are 8:00 a.m. to 8:00 p.m., Monday through Saturday and Sunday by appointment; that the applicant would like a 32 square foot lighted sign; that there will be one staff person and an average of three to four people at one time; that there may be 15 people when a meeting is held; that they do have a rental department and it is not large in Sussex County; and that the stormwater management may need to be upgraded.

The Commission found that no one spoke in favor of or in opposition to the application.

At the conclusion of the public hearings, the Commission discussed this application.

Motion by Ms. Stevenson, seconded by Mr. Hudson and carried unanimously to defer action for further consideration. Motion carried 5-0.

At the request of the applicant the Commission consolidated C/Z 1851 and C/U 2134 into one public hearing. There will be two separate votes when action is taken.

C/Z 1851 The Evergreene Companies, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a MR Medium Residential District for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 7.33 acres, more or less. The property is lying on the north side of Gills Neck Rd., approximately 135 ft. west of Spinnaker Circle in the Wolfe Runne development. 911 Address: 16386 Gills Neck Rd., Lewes. Tax Parcel: 335-8.00-44.00

C/U 2134 The Evergreene Companies, LLC

An Ordinance to grant a Conditional Use of Land in a MR Medium Density Residential District for Multi-family to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 7.33 acres, more or less. The property is lying on the north side of Gills Neck Rd., approximately 135 ft. west of Spinnaker Circle in the Wolfe Runne development. 911 Address: 16386 Gills Neck Rd., Lewes. Tax Parcel: 335-8.00-44.00

Ms. Cornwell advised the Commission that submitted into the record were a site plan, an exhibit booklet, DelDOT, comments from the Sussex Conservation District, staff analysis, and one letter in opposition was record into the record.

The Commission found Jim Fuqua, Attorney with Fuqua, Willard, Stevens and Schab, Josh Mastrangelo, applicant and Bob Palmer with Beacon Engineering were present on behalf of the application; that Mr. Fuqua stated this is a growing area; that it proposes 26 duplexes with 13 buildings; that to the south are several single-family subdivisions with large lots, and they are Senators, Hawkeye, Wolfe Runne and Wolf Point; that to the east is Showfield and it is also to the rear of the property; that the Junction and Breakwater bike trail is adjacent to the west of the

property; that the Cadbury MR-RPC is further west of the property; that Cadbury is 95 acres with many uses; that one part is a retirement community with 48 single and duplexes units and 84 apartments along with 80 assisted living rooms and is now called Moorings of Lewes; that the other part of the site is mixed uses and contains 80 single family lots and 105 townhouse, duplex, and condominium units; that across Gills Neck Road to the west is Governors; that Governors was approved for 472 multi-family condo units on 186 acres; that the 7.33 acre parcel would have a density of 3.5 units per acre which is less than the density permitted in the MR district; that the proposed use is in accordance with the State, Sussex County and the City of Lewes plans; that the property is located in the Level 1 State Strategies; that the Land Use classification per the Comprehensive Plan is in the Environmentally Sensitive Developing Area; that the property is located close to Lewes and their Comprehensive Plans states that 14% of the population is 65 and over, for Sussex County 20.8% is over 65, and for Lewes 43.6 % are over the age of 65; that the median age of Lewes residents is 63 years old; that the Lewes Comprehensive Plan recognizes that many of the residents are older and desire to age in place; that water will be provided by the City of Lewes; that sewer will be provided by Sussex County; that there are no wetlands and the site is not in a floodplain; that there are no endangered species and there are no known historical or agricultural resources on the site; that stormwater management will comply with all regulations; that a TIS was not required; that the entrance to the site will be constructed per DelDOT; that there will be a five foot right-of-way dedication; that the applicant will construct a shared use path; that the closet duplex building will be 60 feet from Gills Neck Road and the pool and deck area would be 80 feet from the road; that there will be one entrance with the cul-de-sac; that the streets will be private and have curb and gutters; that there will be sidewalks on both sides of the street; that the average lot size per unit is 7,240 square feet; that 1.32 acres of woods would remain and that 90% of the woods would remain; that there will be a 20 foot buffer along the east and west of the property; that a 10 foot forested landscape buffer will be along the rear of the property; that they have tried to comply with the Byways plan and a 30 foot wooded buffer will be between Showfield; that Sussex County has approved 660 multi-family units and 80 assisted units in the area; that the use and zoning is consistent with the area; that Mr. Mastrangelo stated the design is to look like a one story and the worst case scenario box is shown on the plan; that Mr. Fuqua stated there will be no parking at the pool due to the size of the community and they could provide a space along the pool; that there will be no age restriction; that the duplex are on a fee simple lot; that there is no price range yet; that there will be no on street parking; that Mr. Palmer stated there will be two parking spaces per unit and each unit will have its own garage; that there will be parking for two in the garage spots, two in the driveway with a minimum of four on site; and that the radius of the cul-de-sac will allow for a fire truck and will still comply with the County's street requirements.

The Commission found that no one spoke in favor of the application.

The Commission found Espin Riggins, Ronald Smith and Wayne Warren spoke in opposition to the application; that Mr. Riggins stated he lives to west of the site; that he has lived their full time for three years and has been in the house for eight years; that he has concerns with traffic and conflict with the trail; that development is out of control; that he feels there is enough multi-family in the area; that Mr. Smith stated he lives east of the site; that he is not against the development but why not eliminate units 25 and 26 to keep with the character of the setbacks along the road; that Mr. Warren stated there is too much on the site; and that he has concerns with traffic.

At the conclusion of the public hearings, the Commission discussed this application.

The Commission discussed the zoning in the surrounding area.

In reference to Change of Zone 1851 there was a motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously defer action for further consideration. Motion carried 5-0.

The Commission held a discussion regarding aging in place, setbacks and parking.

In reference to Conditional Use 2134 there was a motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously defer action for further consideration. Motion carried 5-0.

C/Z 1852 Canal Corkran, LLC

An Ordinance to amend the Comprehensive Zoning Map of Sussex County from a MR-RPC Medium Density Residential District – Residential Planned Community to amend Change of Zone No. 1359, Ordinance No. 1279, for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 65.125 acres, more or less. The property is lying on the northeast side of Canal Crossing Rd. between Hebron Rd. and Church St. 911 Address: N/A. Tax Parcels: 334-13.00-363.00, 363.01, and 363.02 and 334-13.00-1298.00 - 1414.00 and 334-13.00-1447.00

Ms. Cornwell advised the Commission that submitted into the record were an exhibit booklet, site plan, staff analysis, results of the Service Level Elevation from DelDOT comments from the Sussex Conservation District and one letter in support was record into the record.

The Commission found David Hutt, Attorney with Morris, James, Wilson, and Halbrook, Ring Lardner, with Davis, Bowen & Friedel, Bill Lingo, Principal of Canal Corkran, LLC were present on behalf of the application; that Mr. Hutt stated the application is to request to amend a condition of the existing MR-RPC to further subdivide two lots into six lots for a total of eight lots; that lot 21 is 1.3 acres and lot 22 is seven acres; that the larger tracts were left and considered as personal lots by the developer and there is no longer a need for larger lots; that they would to now like to fully incorporate them into the Canal Corkran community; that the two lots are not fully governed by deed restrictions; that the response to 99-C is in the exhibit booklet; that it has been a development since 1998; that all the lots use the same access and the same utilities; that the Ordinance for the RPC was approved for 177 units with a maximum density of 2.76 units to an acre; that 164 units with a maximum density of 2.51 units per acre was constructed with six lots; that of 170 units is 2.61 density and is still under the approved original density; that the lots are similar in size with the rest of the area and some are even larger; that they request have submitted a request for a waiver from the 20 foot forested buffer requirement as the wooded areas are in wetlands and cannot be disturbed; that there is no new common area to be conveyed to the HOA; that they would be willing to mark the wetlands; that the adjacent subdivision has a large wooded area near the proposed lots; that this decreases the number of units to 170 and increases the single family units to 105; that the HOA provided a letter in support of the application; that Mr. Lardner stated that the old cul-de-sac will be removed and moved further back; that the setbacks are 30 foot front yard, 10 foot side yard and 10 feet rear yard; that they will use the wetlands as a de facto property line and establish a setback off of the

wetlands; that they did do a wetland delineation update; that there will be deed restrictions, especially regarding the wetlands; and that there will be notes on the plan and they may sign the wetlands.

The Commission found that Jason Abela spoke in support of the application that Mr. Abela stated he is the President of the HOA; that the proposal will have a negligible effect on the development and accessory buildings are not allowed in the development; and that they have 65% approval by the homeowners.

The Commission found that Ed Haggerty spoke in opposition to the application; that Mr. Haggerty stated there is a stream that goes through the wooded area and he is concerned with what happens to it; that he has questions on how close they can build to the homes on the adjacent subdivision; and that he has concerns with noise.

At the conclusion of the public hearings, the Commission discussed this application.

The Commission discussed the wetlands; the need for the deeds and restrictive covenants to state there are non-disturbance areas; and whether markers should be placed showing the wetlands.

Motion by Mr. Hudson, seconded by Ms. Stevenson, and carried unanimously to defer action for further consideration. Motion carried 5-0.

OTHER BUSINESS

Majestic Meadows (fka River Rock Glen) (2017-3)

Revised Subdivision Plan

Ms. Walls advised the Commission that this is a Revised Preliminary Subdivision Plan for the construction of a cluster subdivision of 26 single-family lots to be located off of Hudson Rd. The Preliminary Subdivision Plan was approved by Planning & Zoning Commission at its meeting of July 27, 2017. A Revised Preliminary Subdivision Plan, showing revisions to lot sizes, road design, and the addition of sidewalks on both sides of the road was approved by Planning and Zoning Commission as Preliminary and Final at its meeting of April 12, 2018. The plans have since been further revised to change the road design, and adjust lot locations, with sidewalks provided on one side of the road. The Subdivision Plan complies with the conditions of approval and the Zoning and Subdivision Codes. Tax Parcel: 235-22.00-19.00. Zoning District: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals for the changes in road design.

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to approve the revised subdivision plan with final approval subject to Planning Commission upon receipt of all agency approvals. Motion carried 5-0.

Performance Injection Equipment (CU 2039)

Revised Site Plan

This is a Revised Site Plan for the addition of two buildings one measuring 1,200 sf. the other measuring 2,200 sf. located at the corner of Rt. 113 and Betts Ln. The plan is in compliance with the Zoning Code. Tax Parcel: 133-6.00-110.00. Zoning: AR-1 (Agricultural Residential District). Staff are in receipt of all agency approvals.

Motion by Mr. Hudson, seconded by Mr. Hopkins, and carried unanimously to approve the revised site plan with final approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

Service Energy (CU 1160)

Determination of Expansion of Conditional Use Permit.

Ms. Bulkilvish advised the Commission that this is an application for a determination as to whether the relocation of a fire protection pond outside of the approved Conditional Use area would constitute an expansion of the approved Conditional Use. The Planning Commission held a public hearing on July 11, 1996 and County Council approved the application on August 6, 1996. The site plan was revised and approved by Planning and Zoning Commission on July 15, 2009 to allow for underground storage tanks to be installed. The site is located at the northeast corner of Coastal Hwy. (Rt. 1) and Cedar Beach Rd. Tax Parcel: 330-7.00-12.00. Zoning: AR-1 (Agricultural Residential District).

The Commission discussed the pond location and that fire ponds have been placed on adjacent properties of a different zoning classification.

Motion by Ms. Stevenson, seconded by Ms. Wingate, and carried unanimously to approve that this is not an expansion of the Conditional Use area. Motion carried 5-0.

Service Energy (CU 1160)

Revised Site Plan

Ms. Bulkilvish advised the Commission that this is a Revised Site Plan for the addition of seven underground propane tanks within the area designated for CU 1160. The Planning Commission held a public hearing on July 11, 1996 and County Council approved the application on August 6, 1996. The site plan was revised and approved by Planning and Zoning Commission on July 15, 2009 to allow for underground storage tanks to be installed. The property is located at the northeast corner of Coastal Hwy. (Rt. 1) and Cedar Beach Rd. Tax Parcel: 330-7.00-12.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting all agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to approve the revised site plan with final approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

Geyer Properties (S-18-44)

Preliminary Site Plan

Ms. Bulkilvish advised the Commission that this is a Preliminary Site Plan for the construction of a 1,428 SF. building containing two units, one for contractor storage and another for recreational purposes, along with parking and other site improvements located off Ward Ave. Tax Parcel: 334-5.00-117.00. Zoning: C-1 (General Commercial District). Staff are awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to approve the preliminary site plan with final approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

Bethany Florist (CU 2100 & S-18-48))

Preliminary Site Plan

Ms. Bulkilvish advised the Commission that this is a Preliminary Site Plan for a 1,904 SF retail flower shop, and parking areas to be located at 36570 Camp Barnes Rd. Sussex County Council approved CU 2100 at its meeting of October 31, 2017 subject to conditions. The submitted Preliminary Site Plan complies with all conditions of approval, and the Zoning Code. The Preliminary Site Plan meets the requirements for Final Site Plan approval. Tax Parcel is 134-19.00-117.01. Zoning: AR-1 (Agricultural Residential District). Staff is in receipt of all agency approvals.

Motion by Mr. Hudson, seconded by Ms. Stevenson, and carried unanimously to approve the preliminary site plan and final site plan. Motion carried 5-0.

Lands of Williamson

Minor Subdivision off 50' easement

This is a minor subdivision off a 50' easement to create one parcel measuring 10 ac. +/- from a larger parcel measuring 96.23 ac. +/- located off Horseshoe Rd. Tax Parcel: 531-8.00-21.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals.

Motion by Mr. Hudson, seconded by Ms. Stevenson, and carried unanimously to approve the minor subdivision off a 50' easement and final approval to staff upon receipt of all agency approvals. Motion carried 5-0.

Lands of Burton

Minor Subdivision off 50 ft. easement.

Ms. Bulkilvish advised the Commission that this is a minor subdivision off a 50' easement to create two additional parcels each measuring 1.00 acre +/- from a larger parcel measuring 11.52 acres +/- located off Waterview Rd. The easement is over an existing driveway. The lot size and width comply with the Conservation Zone. Tax Parcel: 234-12.00-76.00. Zoning: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals.

Motion by Mr. Hopkins, seconded by Ms. Stevenson, and carried unanimously to approve the minor subdivision off 50' easement and final approval to staff upon receipt of all agency approvals. Motion carried 5-0.

ADDITIONAL BUSINESS

The Commission held a discussion to add items to the Agenda regarding parking, ramps and other zoning items; that they would like a Comprehensive Plan presentation to Planning Commission and that the packets could possibly become paperless.

The Commission wished Mrs. Walls well.

Meeting adjourned at 8:19 p.m.